REMARKS

In accordance with the foregoing, claims 1, 3, 13, and 24 have been amended. No new matter is submitted.

Claims 1, 3-7, 13, 15 and 24 are pending and under consideration. It is respectfully submitted that these amendments do not change the breadth or scope of the claims. Rather, they merely clarify features already required by the claims. Entry and reconsideration is respectfully requested.

DOUBLE PATENTING:

In the Office Action, at pages 2-3, the Examiner rejected claims 1, 3-7, 13, 15 and 24 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of Kim et al. (USPN 5,961,647; hereafter, Kim) in view of Chaiken et al. (USPN 6,223,283; hereafter, Chaiken).

Since the Examiner points out "the claims differ from Kim et al. in that Kim et al fails to explicitly teach the monitor including a memory storing monitor information wherein the information is provided to the computer whether the monitor powered on or off as claimed," it is respectfully submitted that the Examiner is agreeing that claims 1, 3-7, 13, 15 and 24 of the present application are patentably distinct from the earlier claims of Kim. That is, it was necessary for the Examiner to refer to Chaiken also in order to assert that claims 1, 3-7, 13, 15 and 24 of the present application may be obvious with respect to the combination of Chaiken and Kim.

It is submitted that the monitor including a memory storing monitor information wherein the information is provided to the computer whether the monitor powered on or off as claimed represents a patentably distinct invention from the invention of Kim.

Obviousness-type double patenting requires a two-step analysis. First, one asks whether the later claim "encompasses" subject matter previously claimed. Second, one must determine if the later claims are patentably distinct from the earlier claims. *E.g., Georgia-Pacific Corp. v. United States Gypsum Co.,* 195 F.3d 1322, 1326-27, 52 USPQ 2d 1590, 1593-94 (Fed. Cir. 1999), *cert. denied*, 2000 U.S. LEXIS 5064 (Oct. 2, 2000); *In re Kaplan,* 789 F.2d 1574, 1577, 229 USPQ 678, 681 (Fed. Cir. 1986).

If the second patent is patentably distinct from the first, there is no double patenting (emphasis added). *See id.*; *General Foods Corp. v. Studiengesellschaft Kohle GmbH*, 972 F.2d 1272, 1278-79, 23 USPQ 2d 1839, 1844 (Fed. Cir. 1992) ("[T]he determining factor in deciding whether or not there is [obviousness-type] double patenting is the existence *vel non* of a patentable difference between two sets of claims." (emphasis added)). This is so even when the first patent "reads on" or dominates the second patent. *See In re Kaplan*, 789 F.2d at 1577, 229 USPQ at 681 (reversing the Board of Appeals' double patenting rejection because it confused double patenting with domination); 3 D. Chisum, *Chisum on Patents* § 9.03[2][b][ii] (1999) (noting that the same inventor may obtain separate patents on the basic invention and an improvement dominated by the basic invention if another inventor could also have obtained a patent on that improvement). Simply stated, there is no unreasonable extension of the patent right when the second patent claims a patentably distinct invention.

Thus, as noted above, there exists a patentable difference between the claims of Kim and the claims 1, 3-7, 13, 15 and 24 of the present application.

Hence, it is respectfully submitted that the arguments of the Examiner are actually referring to the Examiner's rejection of claims 1, 3-7, 13, 15 and 24 of the present application under 35 USC §103(a) wherein he submits that said claims are unpatentable over Kim et al. in view of Chaiken (see below) and said arguments do not refer to a double patenting rejection.

Thus, it is respectfully submitted that there is no double patenting of 1, 3-7, 13, 15 and 24 of the present application with respect to Kim et al. (USPN 5,961,647) in view of Chaiken et al. (USPN 6,223,283).

Withdrawal of this rejection is respectfully requested.

REJECTION UNDER 35 USC §103

Claims 1, 3-7, 13, 15 and 24 stand rejected under 35 USC §103(a) as being unpatentable over Kim et al. (USPN 5,961,647; hereafter, Kim) in view of Chaiken et al. (USPN 6,223,283; hereafter, Chaiken). This rejection is respectfully traversed.

Independent claims 1, 3, 13, and 24 have been amended only for clarity. The amendments are based on, for example, paragraphs [0037]-[0038] of the specification.

The Examiner admits that Kim does not explicitly teach the monitor including a memory storing monitor information wherein the information is provided to the computer whether the monitor is powered on or off.

As recited in the Abstract of Chaiken, recited below for the convenience of the Examiner, Chaiken teaches that a processing unit may configure itself to operate effectively with a monitor, but does not teach or suggest a monitor including a memory storing monitor information wherein the information is provided to the computer whether the monitor is powered on or off:

> A monitor includes a file that identifies one or more compatible monitors and/or a list of features of the monitor. A processing unit, such as a computer, that does not specifically support the particular monitor may nonetheless configure itself to operate effectively with the monitor. If the processing unit supports a compatible monitor, it configures itself to operate with the compatible monitor. Otherwise, the processing unit may configure itself to support the features of the particular monitor. (emphasis added)

Hence, even if combined, Kim and Chaiken do not teach or suggest amended independent claims 1, 3, 13 and/or 24 of the present application.

Thus, it is respectfully submitted that amended independent claims 1, 3, 13, and 24 of the present application are patentable under 35 USC §103(a) over Kim et al. (USPN 5,961,647) in view of Chaiken et al. (USPN 6,223,283), alone or in combination. Since claims 4-7 and 15 depend from amended independent claims 1, 3, and 13, respectively, claims 4-7 and 15 are patentable under 35 USC §103(a) over Kim et al. (USPN 5,961,647) in view of Chaiken et al. (USPN 6,223,283), alone or in combination, for at least the reasons amended independent claims 1, 3, and 13 are patentable under 35 USC §103(a) over Kim et al. (USPN 5,961,647) in view of Chaiken et al. (USPN 6,223,283), alone or in combination.

Withdrawal of these rejections and allowance of all pending claims are respectfully requested.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,
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